

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 09-334
v.	:	
MAURICE LYNCH	:	VIOLATIONS:
		42 U.S.C. § 7413(c)(1) (Clean Air Act -
		knowing violation of permit - 1 count)
	:	42 U.S.C. § 7413(c)(2)(A) (Clean Air Act
		false statement - 1 count)
	:	18 U.S.C. § 1505 (obstruction of agency
		proceeding - 1 count)
	:	18 U.S.C. § 2 (aiding and abetting)

SUPERSEDING INDICTMENT

COUNT ONE

(Clean Air Act - Knowing Violation of Permit)

THE GRAND JURY CHARGES THAT:

At all times material to this superseding indictment:

1. Defendant MAURICE LYNCH was the Environmental and Safety Manager for the Diageo North America, Inc. (“Diageo”) plant located in Lehigh County, Pennsylvania (“Diageo Plant”), which manufactured spirits and other alcoholic beverages. Diageo employs more than 20,000 persons and has manufacturing facilities around the world, including its plant in Lehigh County, Pennsylvania.

2. In or about June of 1998, the Pennsylvania Department of Environmental Protection (“PADEP”), pursuant to its federally authorized Clean Air Act (“CAA”) program,

issued a CAA Title V permit (“Permit”) for the Diageo Plant, which specifies the air emissions limitations and standards to which the facility is subject. The Permit required, among other things, that Diageo have properly trained personnel perform weekly monitoring at the Diageo Plant to determine the presence of fugitive and visible air pollutant emissions, and to maintain accurate records of such monitoring.

3. In or about April of 2005, defendant MAURICE LYNCH became responsible for performing and ensuring the performance of weekly fugitive and visible air pollutant emissions monitoring at the Diageo Plant.

4. From on or about April 29, 2005, and continuing through on or about November 11, 2005, defendant MAURICE LYNCH knowingly failed to perform and failed to ensure that other persons performed weekly fugitive and visible air pollutant emissions monitoring at the Diageo Plant.

5. Commencing on or about April 29, 2005 and continuing through on or about November 11, 2005, in the Eastern District of Pennsylvania, defendant

MAURICE LYNCH

knowingly violated a requirement of the Diageo Plant’s CAA Title V Permit in that he failed to perform and failed to ensure that other persons performed weekly fugitive and visible air pollutant emissions monitoring.

All in violation of Title 42, United States Code, Sections 7661a(a) and 7413(c)(1).

COUNT TWO

(Clean Air Act False Statement)

THE GRAND JURY FURTHER CHARGES THAT:

1. The allegations contained in Paragraphs 1 through 4 of Count One of this Superseding Indictment are incorporated here by reference.
2. As Environmental and Safety Manager, defendant MAURICE LYNCH was responsible for maintaining accurate records of weekly fugitive and visible air pollutant emissions monitoring at the Diageo Plant.
3. From on or about April 29, 2005 through on or about November 11, 2005, defendant MAURICE LYNCH failed to maintain accurate records of weekly fugitive and visible air emissions monitoring as required by the Permit.
4. On or about November 14, 2005, PADEP, pursuant to its federally authorized CAA program, inspected the Diageo Plant to determine Diageo's compliance with the terms and conditions of the federally authorized Permit.
5. During the November 14, 2005 inspection, defendant MAURICE LYNCH recruited and ordered other persons to assist him in creating false weekly air emissions monitoring records for the time period of on or about April 29, 2005 through on or about November 11, 2005.
6. The monitoring records that were created at the direction of the defendant MAURICE LYNCH represented that, for the time period beginning on or about July 1, 2005 through October 28, 2005, weekly fugitive and visible air pollutant emissions monitoring was performed by a Diageo employee known to the grand jury and identified for purposes of this

superseding indictment as J.S, and that Diageo was in compliance with its Permit requirements.

These records were false because, as defendant LYNCH knew:

- a. J.S. did not perform fugitive and visible emissions monitoring at the Plant during this time period;
- b. J.S. did not create the records on the dates as indicated thereon; and
- c. the Permit compliance information provided in the reports was fictitious.

7. The monitoring records that were created at the direction of the defendant MAURICE LYNCH also represented that, for the time period of on or about April 29, 2005 through on or about June 24, 2005, and on or about November 4, 2005 through on or about November 11, 2005, fugitive and visible air emissions monitoring was performed by another Diageo employee known to the grand jury and identified for purposes of this superseding indictment as P.M, and that Diageo was in compliance with its Permit requirements. These records were false because, as defendant LYNCH knew:

- a. P.M. did not perform fugitive and visible emissions monitoring at the Plant during these time periods;
- b. P.M. did not complete these records on the dates as indicated thereon; and
- c. the Permit compliance information provided in the reports was fictitious.

8. On or about November 14, 2005, in the Eastern District of Pennsylvania, defendant

MAURICE LYNCH

knowingly made and caused others to make materially false statements and representations in records required to be maintained by the Clean Air Act by creating and causing to be created

weekly records that falsely represented that fugitive and visible air emissions monitoring had been performed at the Diageo Plant by J.S. and P.M. for the time period of on or about April 29, 2005 through on or about November 11, 2005, and that Diageo was in compliance with its Permit requirements, when, in truth and in fact, defendant LYNCH knew these representations to be false, and aided, abetted, counseled, commanded, induced, and procured the false representations.

All in violation of Title 42, United States Code, Section 7413 (c)(2)(A) and Title 18, United States Code, Section 2.

COUNT THREE

(Obstruction of Agency Proceeding)

THE GRAND JURY FURTHER CHARGES THAT:

1. The allegations contained in Paragraphs 1 through 4 of Count One and Paragraphs 2 through 7 of Count Two of this Superseding Indictment are incorporated here by reference.

2. During the November 14, 2005 PADEP inspection of the Diageo Plant, defendant MAURICE LYNCH presented the falsified fugitive and visible air emissions monitoring records for the time period of on or about April 29, 2005 to on or about November 11, 2005 to PADEP in order to impede, influence and mislead federal and state governmental regulators into believing that Diageo was in compliance with its federally authorized CAA Permit requirements.

3. On or about November 14, 2005, in the Eastern District of Pennsylvania, defendant

MAURICE LYNCH

corruptly obstructed, impeded, and endeavored to influence, obstruct and impede the due and proper administration of the law under which a pending proceeding was before the United States Environmental Protection Agency, an agency of the United States, in that defendant LYNCH presented to PADEP, during a federally authorized compliance inspection, falsified weekly fugitive and visible air emissions monitoring reports for the time period of on or about April 29, 2005 through on or about November 11, 2005, in order to influence, obstruct and mislead federal and state environmental enforcement officials into believing that Diageo was in compliance with its federally authorized CAA Permit requirements.

In violation of Title 18, United States Code, Section 1505.

A TRUE BILL:

GRAND JURY FOREPERSON

MICHAEL L. LEVY
UNITED STATES ATTORNEY